

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER POLK,

Plaintiff,

-v-

DEL GATTO INC.,

Defendant.

21 Civ. 129 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On February 24, 2021, defendant filed a motion to dismiss the complaint. Dkt. 16.

Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by March 17, 2021. No further opportunities to amend will ordinarily be granted. If plaintiff does amend, by April 7, 2021, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by March 17, 2021. Defendant's reply, if any, shall be served by March 24, 2021. At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

¹ If defendant files a new motion to dismiss or rely on their previous motion, plaintiff's opposition will be due 14 days thereafter, and defendant's reply, if any, will be due seven days after that.

The Court will determine later, after receipt of plaintiff's anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: February 25, 2021
New York, New York